

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT SPRUIT,

Plaintiff,

v.

HCC/KPM, LLC,

Defendant.

Civil Action No. 19-851

Judge Cathy Bissoon

**ELECTRONICALLY FILED**

**PLAINTIFF'S MOTION FOR VOLUNTARY DISMISSAL  
AND RESPONSE TO SHOW CAUSE ORDER**

The above-captioned plaintiff, by and through his undersigned counsel, files this motion for voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(2) and response to this Honorable Court's April 7, 2021 Order to Show Cause, whereof the following is a statement:

1. Plaintiff is Robert Spruit; Defendant is HCC/KPM, LLC. Defendant has not filed any counterclaim.
2. On or about July 17, 2019, Plaintiff filed his Complaint against Defendant in the above-captioned matter in which he alleged violations of the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621, *et seq.* [Document No. 1]
3. On or about April 7, 2020, this Honorable Court entered an Order of Court that stayed and administratively closed this matter while the parties engaged in jurisdictional discovery. [Document No. 18]
4. Plaintiff's counsel have concluded that further discovery would be futile as to the above, threshold jurisdictional issues.

5. On or about April 7, 2021, this Honorable Court entered an Order to Show Cause and directed Plaintiff to file a response on or before April 14, 2021. [Document No. 19]

6. Plaintiff respectfully requests that this motion be deemed as his response to the above Order to Show Cause.

7. Based on the above, Plaintiff respectfully seeks a voluntarily dismissal of this civil action pursuant to Federal Rule of Civil Procedure 41(a)(2).

8. A district court should freely grant a motion for voluntarily dismissal as long as the nonmovant will not be prejudiced. *See Cone v. W. Va. Pulp & Paper Co.*, 330 U.S. 212, 217; *Versa Prods., Inc. v. Home Depot, USA, Inc.*, 387 F.3d 1325, 1327 (11th Cir. 2004). Defendant will not be prejudiced by the dismissal as the entry of the same would not deny it any defense to which Defendant may be entitled.

9. This case is not governed by any federal statute that requires an Order of Court for dismissal of this civil action.

10. Plaintiff has not previously dismissed any federal or state court lawsuit based on or including the same claims as those presented in the above-captioned matter.

WHEREFORE, for the reasons set forth herein, Plaintiff respectfully requests that this Honorable Court grant the instant motion and enter the requested voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(2); a proposed Order of Court is attached.

Respectfully submitted,

QUINN LOGUE LLC

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Date: April 14, 2021